

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: NORTHERN NATURAL GAS COMPANY AND PEOPLES NATURAL GAS COMPANY, DIVISION OF UTILICORP UNITED INC.	DOCKET NO. INU-02-1
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ORDER DOCKETING INVESTIGATION INTO AD VALOREM TAX REFUND

(Issued March 11, 2002)

On March 5, 2002, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an application with the Utilities Board (Board) requesting that the Board commence an investigation into the refunding of ad valorem taxes by Northern Natural Gas Company (NNG) and Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Peoples). Consumer Advocate states that it has information NNG has received a refund of ad valorem taxes of approximately \$3.15 million from producers for the period 1983 to 1989. Peoples had charged its customers in several states for the ad valorem taxes and the Iowa portion is approximately \$825,000. Consumer Advocate states that although NNG has received the refund amount from the producers, NNG has refused to make refunds or pass the refunds to Peoples for distribution to the retail customers. The application for an investigation has been identified as Docket No. INU-02-1.

Pursuant to the provisions of Iowa Code § 476.10, the Board finds that it is necessary to investigate any retention of ad valorem tax refunds. The United States Court of Appeals for the District of Columbia Circuit in Public Service Company of Colorado v. Federal Energy Regulatory Commission, 91 F.3d 1418 (D.C. Cir. 1996), held that producers must refund certain Kansas ad valorem taxes that were collected in excess of the maximum lawful prices for first sales of natural gas under Title I of the Natural Gas Policy Act for the period 1983 through 1988. The Federal Energy Regulatory Commission (FERC) on September 10, 1997, issued an order establishing procedures for the refunding of the ad valorem taxes by the producers to the interstate pipelines and the pipelines then were "required to pay over all refunds they receive to their customers." Public Service Co., et al., 80 FERC ¶ 61,264 (1997), reh'g denied, 82 FERC ¶ 61,058.

The Board issued an order on May 3, 2001, approving a refund plan for Peoples to return earlier ad valorem tax refunds Peoples had received based upon a FERC-approved settlement between customers, producers, and NNG. The Board has approved similar refund plans for the other natural gas utilities in Iowa. It is the Board's understanding of the Court of Appeals decision and the FERC order that all ad valorem taxes were to be refunded to the retail customers who paid them. An investigation into the reason that a part of those ad valorem taxes has not been refunded is therefore appropriate and necessary to ensure that monies due retail Iowa customers are returned to those customers.

The Board has several questions concerning this matter. Those questions will be directed to NNG and Peoples. Once the responses are received, the Board will determine if further proceedings are necessary.

QUESTIONS

1. Provide the journal entries showing the receipt by NNG of the ad valorem tax refunds at all times made by the producers to NNG and the journal entries of the disbursements by NNG of those refunds to NNG customers. Please show the journal entries for any refund amounts retained or otherwise disposed of by NNG. Please also state the portion of any refund amounts retained or otherwise disposed of by NNG attributable to Iowa customers.
2. State the basis for any failure to pass ad valorem tax refunds on to local distribution companies and ultimately to end-use customers. Please provide all legal arguments and copies of documents that are considered relevant.
3. Describe the corporate history of NNG and Peoples from 1975 to the present. Please provide all documents showing reorganizations, sales, or other incidents of corporate restructuring that show the relationship between NNG and Peoples since 1975. Also, provide copies of any orders or other documents showing the approval by the Utilities Board or its predecessor the Iowa State Commerce Commission of the reorganizations, sales, or other incidents of corporate restructuring.
4. Assuming a refund is necessary, how would it be made?.

5. Provide a calculation of the interest that would be due on the amounts retained through the date of this order.

ORDERING CLAUSES

IT IS THEREFORE ORDERED:

1. The application for an investigation filed by the Consumer Advocate Division of the Department of Justice on March 5, 2002, is docketed as Docket No. INU-02-1.

2. Northern Natural Gas Company and Peoples Natural Gas Company, Division of UtiliCorp United Inc., shall file responses to the questions set out in this order and any other information they deem relevant on or before March 31, 2002.

3. Interested persons shall file applications to intervene in this docket on or before March 18, 2002.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 11th day of March, 2002.